



Town of Merrimack, New Hampshire

Community Development Department

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Town Hall - Lower level - East Wing

Planning - Zoning - Economic Development - Conservation

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Memorandum

Date: May 18, 2016

To: Fran L'Heureux, Chair, & Members, Zoning Board of Adjustment

From: Jillian M. Harris, AICP, Planning & Zoning Administrator

Subject: **Cellco Partnership dba Verizon Wireless (petitioner) and Merrimack Village District (owner)** — Special Exception under Section 2.02.1(B)(3) of the Zoning Ordinance to allow a Telecommunications Tower within the R (Residential) District. The parcel is located off of Turkey Hill Road. Tax Map 5C, Lot 004. Case # 2016-21.

The following information is provided to aid in your consideration of the above referenced case. Additional background and application materials are included in your packet.

Background:

The subject property is an approximately 1.94 acre parcel located on Turkey Hill Road in the R (Residential) District. The property is currently the site of a water tank owned by Merrimack Village District.

The petitioner is proposing a 100' high "monopine" (tower will be camouflaged as a pine tree), within the fenced perimeter of the property on a 10' x 12' concrete pad. The tower is proposed to be located approximately 153' from the east property line, 193' from the south property line, 56' from the west property line and 16' from the north property line. The applicant has indicated that they intend to meet applicable building codes and submit certified and stamped building/construction plans to the building inspector as well as review by a structural engineer designated by the Town. Section 2.02.4.B.22.a.1 allows the Planning Board to permit a lesser setback during site plan review where these criteria are met.

The tower will be enclosed by an 8' fence and serviced by an existing 20' wide access and utility easement, connecting to Turkey Hill Road and to the east section of the site. According to the property description in the application the equipment enclosure will be screened by the chain-link fence, the large reservoir tank and the property's existing foliage.

New telecommunication towers are permitted by Special Exception in the R (Residential) District provided the petitioner can satisfy the criteria in section 2.02.1(B)(3) of the ordinance. The petitioner has provided an extensive application packet which the Board should review carefully in evaluating the petition.

Standard of Review:

It is the burden of the petitioner to demonstrate that the 4 criteria for the granting of a Special Exception from Section 2.02.1(B)(3) of the Zoning Ordinance have been met:

- a) The applicant shall meet the approval criteria set forth in section 2.02.1.B.1 (a-e),
 - a. The specific site is an appropriate location for such a use or uses in terms of overall community development.
 - b. The use as developed will not adversely affect the neighborhood and shall produce no diminution of real estate values in the neighboring area.
 - c. There will be no nuisance or serious hazard to vehicles or pedestrians.
 - d. That an adequate parking area is provided for motor vehicles on the premises.
 - e. A buffer shall be erected and maintained to screen existing residential uses. Buffers may be fence screens, dense plantings of suitable trees and shrubbery, or naturally occurring shrubs and trees.
- b) The applicant shall meet the criteria set forth in Section 2.02.4.B.22.a (New Towers),
 - a. New Towers
 - 1) Towers shall be set back from the property line by a distance equal to the height of the tower. The Planning Board may permit a lesser setback where alternative protections to abutting properties are provided by way of easement, covenant or other adequate deed restriction or where the proposed tower is designed in full compliance with all applicable building codes and building/construction plans submitted to the building inspector are certified and stamped by a licensed structural engineer prior to the issuance of a building permit. Prior to the issuance of a Building Permit, the tower design and plans shall be reviewed by a structural engineer designated by the Town.
 - 2) Accessory facilities must satisfy the minimum zoning district setback requirements.
 - 3) Towers shall maintain a neutral, non-reflective color so as to reduce visual obtrusiveness.
 - 4) For security purposes, towers and ancillary facilities shall be enclosed by a minimum six (6) foot fence.
 - 5) All utility buildings and structures accessory to a tower shall be screened from view by suitable vegetation from any adjacent residentially zoned property or public roads.
 - 6) Any proposed communications tower shall be designed, structurally, electrically, and in all respects, to accommodate both the applicant's antennas and comparable antennas for at least three (3) additional users if

the tower is over 100 feet in height or for at least one (1) additional user if the tower is less than 100 feet in height. Towers must be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at varying heights.

- 7) Twice yearly inspections and bonding¹ required: a) the structural integrity of all towers, whether in use, abandoned or unused, shall be inspected at least twice a year; b) copies of inspection reports shall be filed with the Community Development Department within thirty (30) days of the inspection; c) all owners of commercial wireless telecommunication towers shall obtain and maintain a bond to cover the cost of removal of abandoned, unused towers or portions of towers; d) the amount of said bond shall be reviewed by the Town every five (5) years to ensure the amount of security is adequate and may be increased if necessary; e) failure to file the required biannual inspection report with the Community Development Department within the specified time-frame shall constitute sufficient grounds to cause the bond to be called.
 - 8) Permit Required: a) building permits shall be obtained for all towers, accessory structures and antennae; b) the number of users and the total number of antennae on any individual tower shall not exceed that which is permitted under the site plan approved by the Merrimack Planning Board.
- c) Proposed towers shall be disguised through the use of camouflage technologies such as trees, flagpoles, steeples, etc., and
 - d) Written evidence demonstrating that no existing structure can accommodate the applicant's proposed antenna if the applicant is proposing to build a new tower. This evidence can consist of an analysis of the location, height, strength, and potential interference which would make co-location impractical.

Staff recommends that should the Board vote to grant the Special Exception that it be conditioned upon the following:

1. Petitioner to obtain Planning Board site plan approval for the telecommunication tower use of the subject parcel.

cc: Correspondence & Zoning Board File

ec: Cellco Partnership d/b/a Verizon Wireless, Petitioner
Merrimack Village District, Owner
Joshua Lanzetta, McLane Middleton, Professional Association
Building Department Staff

¹ Note that bonding is no longer permitted under State law per RSA 12-K:11